

what currently exists. There is no environmental public review required for a categorical exemption.

RECOMMENDED ACTION:

Adopt Planning Commission Resolution No. PC 11-19 entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE APPROVING CONDITIONAL USE PERMIT NO. 3093-19 TO ALLOW ADMINISTRATIVE OFFICE AREA IN EXCESS OF 25% OF THE TOTAL GROSS FLOOR AREA IN THE LIGHT MANUFACTURING (M-1) ZONE LOCATED AT 1927 N. GLASSELL STREET, UNIT A

Monique Schwartz provided an overview of the request consistent with the staff report.

Mr. Meyer, applicant, spoke on behalf of the project.

Chair Glasgow opened the public hearing portion of the meeting. There were no speakers. The public hearing was closed.

A Motion was made to adopt a Resolution of the Planning Commission of the City of Orange approving Conditional Use Permit No. 3093-19 to allow administrative office area in excess of 25% of the total gross floor area in the Light Manufacturing (M-1) Zone located at 1927 N. Glassell Street, Unit A.

MOTION: Vice Chair Simpson
SECOND: Chair Willits
AYES: Commissioners Glasgow, Willits, Simpson and Martinez
NOES: None
ABSENT: Commissioner Vazquez
ABSTAIN: None

MOTION CARRIED.

Recess: 8:00 - 8:05

- 3.3 OPERATIONAL STATUS OF CONDITIONAL USE PERMIT NO. 2948-14; JR MOTEL, 428 E. LINCOLN AVENUE.** - On July 6, 2015, the Planning Commission adopted Resolution No. PC 19-15 approving the JR Motel, a 23,128 square foot, two story with basement, 28-room motel on two then-vacant parcels located at 428 E. Lincoln Avenue. Since the time of operation, City inspections have determined that violations of building and fire codes have occurred, rooms have been subdivided to increase the number of guest rooms beyond that approved, the floor plan has been enlarged without approval, and the use of the building may not be operating as the purported motel use.

NOTE: The proposed project is categorically exempt from the provisions of the California

Environmental Quality Act (CEQA) per State CEQA Guidelines 15309 (Class 9 – Inspections) because the project performance is being reviewed by the Planning Commission. Should the Planning Commission recommend an enforcement action to be brought back to the Planning Commission, such action would be categorically exempt from the provisions of CEQA per State CEQA Guidelines 15321 (Class 21 – Enforcement Actions by Regulatory Agencies) because enforcement of project conditions of approval and the Orange Municipal Code would be occurring. No public review is required.

RECOMMENDED ACTION:

Review the status report of observed operating conditions and OMC and violations, and Conditional Use Permit provide direction to staff on the course of action the Planning Commission wishes staff to return with to the Planning Commission. Planning Commission action may include any one of the following:

- 1) Receive and file the status report on the Conditional Use Permit and operating or code violations.
- 2) Receive and file the status report on the Conditional Use Permit and impose additional conditions of approval to assure the use operates as a motel and in compliance with the Conditional Use Permit .
- 3) Direct staff to initiate the revocation of the Conditional Use Permit and set a date for a Planning Commission hearing.

Chad Ortlieb, Senior Planner, provided a presentation consistent with the staff report.

Mr. Ortlieb provided an online video advertisement for the facility.

Abraham Odabachian and Mr. Liu, counsel representing JR Motel and Mr. Huang, approached and spoke on behalf of the project and provided a rebuttal to allegations as follows:

- The Planning Commission approved the use as a motel
- The Municipal Code allows customers to contract out of transiency.
- Evidence/allegations in the staff report is that it is a birthing center with refrigerators, bottle warmers, bassinets, no signage, and no transient occupancy tax. The operator/owner's position is that it does have these items but in support of hospitality to its customers.
- The motel deals with an agent that provides contracts to customers for longer than 30-day duration stays and these contracts have been provided to the City.
- From the staff report, the Finance Department reports that transient occupancy tax reporting requirements have been met because all rooms rented are reported to be 30 days or more; no taxes are collected. Contracts have been submitted to the City.
- With regard to construction issues, the JR Motel has obtained a demolition permit and the process has started. JR Motel is willing to provide progress reports. The position of JR Motel is for the Planning Commission allow the business to operate and for the Planning Commission to provide additional conditions to give peace of mind for compliance
- The Commission had questions and comments on the following: Confirmation that the

business is facilitating over 30-day stays per agreements and the operation is running more like a boarding house.

- The need to more clearly establish whether the business is operating as a motel or a boarding house and whether it complies with the parameters.
- Whether the Conditional Use Permit authorizes more than 30 day stays.

Mr. Liu indicated that the OMC allows stays of longer than 30 days. He noted, with regard to construction issues, they are in the process of being fixed. Mr. Liu opined that the motel is being run, assuming true, as a birthing center, that there are no violations in that regard. As far as the birthing center issues go, his conversations with U.S. attorneys, including a main US attorney, stated that women are more than welcome to come to America and have babies. ICE inspection had no arrests. There is no violation. Maybe ICE will issue a finding, until then there is nothing illegal about running a birthing center, assuming that is true.

Chair Glasgow reiterated that the Commission isn't discussing a birthing center, and stated that the Commission is looking at how the use is being run in comparison to what was approved under the Conditional Use Permit.

Mr. Ortlieb responded by reading definitions of the Municipal Code pertaining to motels, hotels, and transiency.

Chair Glasgow invited a representative of the Finance Department forward.

Shawn Horning, representing the Business License Division, discussed how transient occupancy tax (TOT) is calculated and noted that it is based on 30 days and under. She also noted that certain rentals such as bassinets are subject to TOT tax. Ms. Horning noted that there are no hotels in the City that report 100% occupancy for more than 30 days.

Ms. Binning, Assistant City Attorney, noted that incidentally, more than 30 day stays are allowed, but there are no motels having it 100% of the time.

Chair Glasgow inquired if there is a TOT on those other motels.

Ms. Horning stated that the first 30 days are subject to the tax unless predesignated with a signed contract, which she has not received.

Chair Glasgow stated that if it is a pre-signed agreement, it is not being run as a motel, it is more of an apartment. Ms. Horning stated that was her understanding.

Chair Glasgow asked if we know if the County has signed off on the kitchen.

Mr. Ortlieb noted that the City signed off on the kitchen as a component of approved plans.

Chair Glasgow asked if the applicant is in the process of taking care of all the unpermitted rooms.

Mr. Ortlieb responded that a demolition permit was obtained but staff does not know the status of the corrections and is waiting for an inspection request.

Commissioner Simpson inquired that one condition is that the applicant must comply with all state and federal laws and we don't know the disposition of the other agencies, could we open to liability that we aren't enforcing our condition?

Ms. Binning stated that we wouldn't be open to liability.

Chair Glasgow opened the public hearing.

Adriene Gladson, former Chair of the Planning Commission when this item was approved in 2017. She noted additional conditions should be imposed on the applicant to bring them into compliance with the Municipal Code and Conditional Use Permit.

Wesley Sutterfield, nearby resident indicated that based on his observation of activities conducted at the motel are not consistent with normal motel operations.

Chair Glasgow closed the public hearing.

Michelle Echeverria, Code Enforcement Officer with the Orange Police Department stated the original complaint was filed as possible human trafficking and rumors about a birth tourism operation, so they conducted an initial inspection in 2017.

The Commission continued with questions and comments are as follows:

- Were there any other violations on the property?
- What the source was of the original complaint?
- Does not appear to be a legitimate business; the applicant is crossing the line and going into gray areas saying it is a motel; it appears to be more of a boarding room facility.
- Appears applicant was trying to skirt under the law and City codes in trying to hide the added rooms and construction which appears to have been done without City knowledge and proper permits. Applicant is clearly not in compliance.
- No public rate sheet or signage on premises.
- When attempting to make reservations by phone, the agent hung up on them.
- A significant amount of City resources have been dedicated to inspect violations and there is displeasure with waste of tax dollars.
- The public trust needs to be upheld.

Chair Glasgow recommended imposing the third option listed on page seven of the staff report, with additions and revisions, as follows:

3. Direct staff to return to the Planning Commission with a resolution that includes staff recommended conditions and, additional conditions, thereby modifying the JR Motel Conditional Use Permit. Additional conditions include:

- Require that the owner provide copies of the written agreements with each tenant demonstrating an occupancy longer than 30 days. (OMC 5.16.020G)
- Require that the owner make records available to inspection by Business License (OMC 5.16.110)
- Require further justification for consideration of this use as a hotel/motel as opposed to a boardinghouse/lodginghouse.
- Set a deadline of 45 days for complete rectification of all violations.
- Require City inspections every 30 days to ensure compliance.
- TOT back taxes should be paid retroactive to the effective date of the certificate of occupancy.
- If any other violations are found after the 45 day window, staff returns to the Planning Commission with the recommendation of revocation of their Conditional Use Permit.
- Other conditions as determined by the Planning Commission.

The Commission and staff agreed to continue the item in order to allow staff to return to the Commission with a revised Resolution.

A motion was made to continue this item until November 4, 2019 in order for staff to return with a revised resolution.

MOTION: Glasgow
SECOND: Martinez
AYES: Commissioners Glasgow, Willits, Simpson and Martinez
NOES: None
ABSENT: Vazquez
ABSTAIN: None

MOTION CARRIED.

4. ADJOURNMENT: 9:00 PM

The next regular Planning Commission Meeting will be held on Monday, October 21, 2019.